

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Kymberlie Barnes

Plaintiff,

Case No. 07-12141

v.

Hon. Nancy G. Edmunds

Hartford Life and Accident Insurance Company,

Defendant.

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ORDER ACCEPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION [30]

This matter has come before the Court on the Magistrate Judge's Report and Recommendation [30]. Being fully advised in the premises and having reviewed the record and the pleadings, including the Report and Recommendation and any objections thereto, the Court hereby ACCEPTS AND ADOPTS the Magistrate Judge's Report and Recommendation.

The Court clarifies that Defendant's decision to terminate Plaintiff's long-term disability benefits was not arbitrary and capricious because it "is the result of a deliberate, principled reasoning process," and "is supported by substantial evidence." *Glenn v. Metro. Life Ins. Co.*, 461 F.3d 660, 666 (6th Cir. 2006) (quoting *Baker v. United Mine Workers of Am. Health & Ret. Funds*, 929 F.2d 1140, 1144 (6th Cir. 1991)). Defendant considered the following evidence before reaching its reasoned conclusion: (1) a registered nurse's assessment of Plaintiff's functionality reached after review of medical records and surveillance footage; (2) Plaintiff's treating physician's initial agreement with the registered nurse's assessment of Plaintiff's functionality; (3) an Assessment of Employability finding several occupations for which Plaintiff was qualified and that met Plaintiff's functional limitations; (4) a physician's assessment of Plaintiff's functionality reached after review of medical records and consultation with Plaintiff's treating physician; (5) a functional capacity evaluation; and (6) psychological testing.

It is further ordered that Plaintiff's motion for judgment on the administrative record is DENIED, Defendant's motion for entry of judgment is hereby GRANTED, and the case is hereby DISMISSED.

SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: September 18, 2008

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on September 18, 2008, by electronic and/or ordinary mail.

s/Carol A. Hemeyer
Case Manager